

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Shirley Lindsay,
Plaintiff,

v.

Donelle Dadigan;
US Bank, N.A.;
Defendants.

Case: 2:16-cv-01481-CBM-AS

**Declaration of Mark Potter in
Support of Plaintiff's Reply
Brief: Motion for An Award of
Attorney's Fees**

Date: February 28, 2017
Time: 10:00 a.m.
Ctrm: 8B (First Street
Courthouse)

Honorable Consuelo B. Marshall

1. I, the undersigned, am one of the attorneys for plaintiff, Shirley Lindsay, and in that capacity of have familiarity with this case. I can competently testify to the following based on my own knowledge and experience.
2. Over the last eleven years, I have represented numerous clients in cases against US Bank for violations of the ADA and Unruh Civil Rights Act. A representative sampling of those cases is as follows:

Client	Case No.	Court	Filed	Barriers
Monson	30-08-00113731	Santa Ana Superior	10/22/08	No accessible counters or doors
McCory	RIC1105844	Riverside Superior	4/1/11	No accessible counters
Figueroa	VC059271	Norwalk Superior	8/4/11	No accessible counters or tables
Carpenter	SC114809	Santa Monica Superior	11/8/11	No accessible parking
Villegas	TC026094	Compton Superior	1/17/12	No accessible counters
Langer	30-2013-00623683	Santa Ana Superior	1/10/13	No accessible parking
Johnson	2:13-CV-00892-M	Eastern District	5/7/13	No accessible parking
McComb	13K10204	Los Angeles Superior	7/9/13	Paths of travel
Barrera	2:15-CV-00342-P	Central District	1/16/15	No accessible counters
Lammey	2:15-CV-01637-D	Central District	3/6/15	No accessible counters

3. I have identified US Bank, along with a handful of other businesses, as a sophisticated business that that will only undertake remedial projects when forced to do so. This is my experience.
4. Thus, it was important to my client and myself that we ensured that US Bank took steps to remove all the barriers at this facility. I included a demand for comprehensive remediation in the complaint.
5. On occasion, I get Rule 68 Offers that offer to “fix all violations identified in the complaint” or “ensure that the property complies with the ADA,” or – as in this case – promise to follow the recommendations of a future CASp inspection. I have had terrible experiences with accepting such Rule 68

1 Offers. We typically cannot get injunctions issued to cover the non-specific
2 violations and we end up disagreeing with businesses about what compliance
3 actually entails.

4 6. For example, in this case, the defense hired Karen O. Haney as its expert. I
5 have had several battles with Ms. Haney in other cases. In the case, *Salinas v.*
6 *Pacific Castle*, No. 8:14-cv-01233-CJC-AN (C.D. Cal. 2014), Ms. Haney was
7 the defense expert and declared a restaurant's transaction counter fully
8 compliant. I, and my expert, disagreed with her conclusions and opinions.
9 The parties filed cross-motions for summary judgment. Judge Carney agreed
10 with me and rejected Karen O. Haney's expert opinions about compliance.

11 7. The emails submitted as exhibits 2 & 3 are true and accurate copies of the
12 emails sent and received by my office from US Bank.

13 I declare, under penalty of perjury of the laws of the United States, that the
14 foregoing is true and accurate.

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16 Dated: February 14, 2017 CENTER FOR DISABILITY ACCESS

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18 By: /s/ Mark Potter.

19 Mark Potter, Esq.
20 Attorneys for Plaintiff
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